

Donald H. Nichols, MN State Bar No. 78918
(admitted **pro hac vice**)

Paul J. Lukas, MN State Bar No. 22084X
(admitted **pro hac vice**)

Tim C. Selander, MN Bar No. 0387016
(admitted **pro hac vice**)

NICHOLS KASTER & ANDERSON, PLLP
4600 IDS Center
80 S. 8th Street
Minneapolis, MN 55402

Bryan J. Schwartz, CA State Bar No. 209903
Matthew C. Helland, CA State Bar No. 250451
NICHOLS KASTER & ANDERSON, LLP
One Embarcadero Center, Ste. 720
San Francisco, CA 94111

Attorneys for Individual and Representative Plaintiffs

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
others similarly situated, and on behalf of
the general public,

Plaintiffs,

vs.

HSBC Mortgage Corporation (USA);
HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 3:07-cv-2446 MMC

**DECLARATION OF BRYAN J.
SCHWARTZ, ESQ., IN SUPPORT OF
PLAINTIFFS' MOTION FOR
CONDITIONAL CERTIFICATION AND
JUDICIAL NOTICE PURSUANT TO
§216(B) OF THE FLSA, FOR
PRODUCTION OF UPDATED CLASS
LIST IN EXCEL FORMAT WITHIN 10
DAYS OF THE DATE THIS MOTION IS
GRANTED, FOR A PARTIAL
SUMMARY JUDGMENT UNDER
FED.R.CIV.P. 56 THAT NAMED
DEFENDANTS ARE PROPERLY-
NAMED EMPLOYERS UNDER THE
FLSA, AND FOR PARTIAL SUMMARY
JUDGMENT UNDER FED.R.CIV.P. 56
ON FLSA EXEMPTIONS APPLIED TO
LOAN OFFICERS**

1. I am counsel for the Plaintiffs in this matter, over 18 years old, and competent to testify.
2. Prior to bringing this motion, I sought FLSA conditional certification and notice to the class by stipulation, but opposing counsel refused to stipulate.

3. The parties are not at or near the conclusion of discovery in this matter. Indeed, the parties have just begun, with Plaintiffs deposing three corporate desiginees in response to a deposition notice under Rule 30(b)(6), Defendants deposing one of the named-Plaintiffs, and Defendants producing employee lists and a handful of other documents. Although Plaintiffs have served and Defendants answered the first set of discovery, Defendants have yet to produce the vast majority of documents in response to the discovery requests, and many depositions which Plaintiffs are and will be seeking have not even been scheduled.

4. Facing Plaintiffs' motion to compel on the issue of production of requested discovery, and after discovery stipulations between the parties, Defendants produced a list of class members in discovery on November 5, 2007.

5. I deposed Jeannie Jennings, a Fed.R.Civ.P. 30(b)(6) deponent for Defendant HSBC Bank, USA, NA, on December 19, 2007. I hereby corroborate that all representations made about Ms. Jennings' testimony in the instant motion are true and correct. Plaintiffs can provide relevant transcript excerpts upon the Court's request when the final transcript becomes available.

Pursuant to 28 U.S.C. § 1746 I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

DATED: 12/21/07


Bryan Schwartz